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21 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 22 OAKLAND DIVISION

23 ORACLE USA, INC., *et al.*,

24 Plaintiffs,

25 v.

26 SAP AG, *et al.*,

27 Defendants.

No. 07-CV-01658 PJH (EDL)

**[PROPOSED] ORDER GRANTING
 PLAINTIFFS' MOTION NO. 1: TO
 EXCLUDE TESTIMONY OF
 DEFENDANTS' EXPERT STEPHEN
 CLARKE**

Date: September 30, 2010
 Time: 9:00 a.m.
 Place: 3rd Floor, Courtroom 3
 Judge: Hon. Phyllis J. Hamilton

Case No. 07-CV-01658 PJH (EDL)

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOT. 1: TO EXCLUDE TESTIMONY OF DEFENDANTS' EXPERT
 STEPHEN CLARKE

1 The Court having before it the Motion of Plaintiffs Oracle USA, Inc. (predecessor to
2 Oracle America, Inc.), Oracle International Corporation, Oracle EMEA Limited and Siebel
3 Systems, Inc. (collectively “Oracle” or “Plaintiffs”) to Exclude Testimony of Defendants’ Expert
4 Stephen A. Clarke, and having considered the papers and argument of the parties, IT IS
5 HEREBY ORDERED THAT Plaintiffs’ Motion to Exclude Testimony of Defendants’ Expert
6 Stephen Clarke is GRANTED as follows:

7 1. Mr. Clarke may not present or reference or rely on the opinions and
8 conclusions contained in Section 8 of his May 7, 2010 Supplemental Expert Report (“Clarke
9 Report”) (his affirmative *Georgia-Pacific* analysis and proposed hypothetical royalty damages
10 approach and amounts).

11 2. Mr. Clarke also will not be allowed to offer his opinions of case law or
12 orders in this case, as his Report and testimony confirmed he had intended to do.

13 3. Mr. Clarke may not present or reference or rely on the opinions and
14 conclusions contained in Section 9 of his Report (his analysis and proposed amounts for
15 Defendants’ hypothetical license for SAP TN’s use of Oracle’s database software).

16 4. Mr. Clarke may not present or reference or rely on the opinions and
17 conclusions contained in Section 10 of his Report (his causation analysis and exclusion of SAP
18 TN customers under Oracle’s alternative lost profits and infringer’s profits measures of
19 damages).

20 5. Mr. Clarke may not present or reference or rely on the opinions and
21 conclusions contained in Section 8.9.8 of Mr. Clarke’s Report (Third Party Vendors).

22 6. Mr. Clarke’s may not present or reference or rely on his proffered
23 regression analyses for his calculation of the variable cost margins of OUSA and OEMEA as it
24 relates to Oracle’s lost profits damages (Report at 276-281), and SAP’s variable expenses as it
25 relates to the calculation of SAP’s infringer’s profits (Report at 243-246).

26 7. Mr. Clarke may not present or reference or rely on customer declarations
27 produced after his rebuttal expert report was due on March 26, 2010.

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1 8. Mr. Clarke may not reference or rely on the precluded opinions of other
2 SAP experts.

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DATED: _____

Hon. Phyllis J. Hamilton
United States District Court Judge